

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

SCOTT MYERS,

Plaintiff,

-vs-

Case No. 06-CV-11252  
Hon. George C. Steeh

OFFICE DEPOT, INC.,  
a Foreign Profit Corporation

Defendant.

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MATTHEW WIGENT (P46968)  
WARNICKE & WIGENT, PLLC  
Attorneys for Plaintiff  
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Attorneys for Defendant Office Depot, Inc.  
150 West Jefferson, Suite 100  
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(313) 225-7000

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**PLAINTIFF'S MOTION TO COMPEL DEPOSITIONS**

Plaintiff, Scott Myers, by and through his attorneys, Warnicke & Wigent, PLLC, pursuant to Fed. R Civ. P. 37 request that this Honorable Court enter an order requiring Defendant to produce all current employees requested for deposition within fourteen days and produce the last known addresses of those employees Defendant will not produce so that those persons may be subpoenaed for deposition.

WHEREFORE, Plaintiff, Scott Myers, requests that his motion be granted in its entirety.

Respectfully submitted,

**WARNICKE & WIGENT, PLLC**

By: s/ Matthew Wigent  
MATTHEW WIGENT (P46968)  
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Dated: January 29, 2007

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**BRIEF IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL DEPOSITIONS**

**INTRODUCTION AND BACKGROUND**

Plaintiff Scott Myers ("Plaintiff") brings this Motion to Compel Depositions properly noticed (See Exhibit A- Plaintiff's Notice of Taking Depositions and Proof of Service). These deposition notices were mailed to Defendant on December 29, 2006. Counsel for Defendant offices apparently received the notices on or about January 2, 2007 and Defense counsel got notice sometime after January 5, 2007.

Sometime after January 5, 2007, the respective counsel on this matter discussed the depositions noticed. Formalizing the discussions between counsel, Defense counsel composed a letter on January 18, 2007 stating that the persons noticed would not be

produced at the requested time and that some of the individuals no longer worked for Defendant. (See Exhibit B- letter from Lynne Deitch dated January 18, 2006). Plaintiff's counsel then received a second letter from Lynne Deitch on January 23, 2007 informing Plaintiff that two of the nine deponents were available on January 25, 2007. (See Exhibit C- letter from Lynne Deitch dated January 23, 2007). Plaintiff's counsel proceeded with the two depositions, but has received no confirmation when the remaining seven depositions will take place.

As Defendant has no basis for withholding the depositions of its employees or withholding the last known address of the individuals no longer employed with Defendant, Plaintiff respectfully requests an order requiring Defendant produce all current employees requested for deposition within fourteen days, and to supply the last known address of each person Defendant will not produce so Plaintiff may quickly and timely subpoena them for deposition.

### **CONCLUSION**

WHEREFORE, Plaintiff Scott Myers requests an order requiring Defendant Office Depot, Inc. to produce all current employees requested for deposition within fourteen days and supply the last known address of all persons noticed that Defendant will not produce for deposition so each may be subpoenaed for deposition.

Respectfully submitted,

**WARNICKE & WIGENT, PLLC**

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**CERTIFICATION OF REQUEST FOR CONCURRENCE**

Plaintiff's counsel certifies that he attempted to make personal contact with Defendant's counsel on January 29, 2007 requesting concurrence in the relief sought with this Motion and concurrence was not received.

Respectfully submitted.

**WARNICKE & WIGENT, PLLC**

By: s/ Matthew Wigent  
MATTHEW WIGENT (P46968)  
Attorney for Plaintiff  
1701 Cass Lake Road  
Keego Harbor, MI 48320  
(248) 738-5000

Dated: January 29, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that on January 29, 2007, I electronically filed the foregoing paper with the Clerk of the Court using the ECF filing system, which will send notification of such filing to the following:

Lynne E. Dietch (P26732)  
Katherine Donohue Goudie (P62806)  
BUTZEL LONG  
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